REMARKS

The current amendment to the claims, as set forth in the enclosed Status of Claims, is believed to fully define the present invention. It should be appreciated that each of the claims 1-4, 15, 22-25, 34, 51, 54 and 64 has been currently amended. For example, each of these claims has been amended to call for the process or the system to be a procurement process or a procurement system. This amendment is being made to define its intended purpose, that of procuring goods or services by the buyer from a seller of such goods and services.

Section 101 Considerations

In the Examiner interview, it was agreed that the changes discussed immediately below overcame the Examiner's Sec. 101 objections.

The word "procure" is a common English word having the dictionary meaning to obtain possession of goods or services. The expression "procurement process" is not new matter but is found throughout the Applicant's specification, for example in paragraph [0006], on page 4 of the specification. In paragraph [0008], on page 5 there is the language "to procure" with the definition of procurement merely being to procure. The language for "procuring" is also found in paragraph [0014] found on page 8 of the Applicant's specification. The term "procurement" is also found in paragraph [0019] found on page 11 of the Applicant's specification.

The Applicant's claims have been amended to reflect certain elements of the claims as being provided in an electronic medium. One of the principal definitions of the word "electronic" is defined as something done with computers. The Applicant's specification is replete with language indicating the preferred embodiment to involve the use of an electronic medium, such as using the internet in practicing the invention. The expression "electronically" is found on page 43, paragraph [0125] of the Applicant's specification.

By way of further example, the addition of the word "complex" to the word "project." The present invention is intended to provide a procurement process for use with the buying and selling of portions of a complex project. The expression "complex project" is not new matter and is found in paragraph [0091] on page 25 of the Applicant's specification. The expression "complex project" is also found on page 34, paragraph [0106]. Complex projects have a description in paragraph [0146] found on page 53 of the Applicant's specification. In addition to the oil and gas industries example, there is statement on page 55 of the Applicant's specification, paragraph [0149] which indicates that other types of complex projects are contemplated for use with the present invention so the present invention is not intended to be limited to goods or services provided in the drilling, completion and production of oil and gas.

By way of further example, the expression "actual data" has been amended to now be actual performance data. The expression "actual performance data" is not new matter but is described in depth commencing on line 1 of paragraph [0153] on page 56, carrying through the remainder of paragraph [0153] found on page 57.

Section 102 and Section 103 Considerations

With respect to any of the rejections made under 35 U.S.C. 102(a) as being anticipated by Primavera and PurchasePro.com, published by Business Wire on September 21, 1999, it should be appreciated that several individuals associated with PurchasePro were tried in the U.S. District Court in Alexandria on charges including stock fraud, conspiracy and witness tampering, and now prosecutors have added the charge of obstruction of justice in the cross examination of a government witness. As noticed in the 1999 publication, Primavera and Purchase Pro were partners in developing the software. The prosecution team has charged that the software product that supposedly facilitated business-to-business purchases over the Internet, was a failure. The write up on this matter is enclosed herewith as Exhibit A to this

Supplemental Amendment. Moreover, despite the fact the software program being touted by PurchasePro was a failure, it should be appreciated that this reference never once mentions this steps of storing estimated data, and then receiving actual performance data at or near the conclusion of a complex project. With respect to complex projects, the actual performance data and the estimated data are almost uniformly different, i.e. there is typically a discrepancy between the estimated data and the actual performance data. Because there is no indication of there being a discrepancy in the Primavera reference, there would have been no need to send notice to the buyer of the discrepancy between the estimated data and the actual performance data as set forth in the claims. Thus, although there is no veracity with respect to the 1999 publication of Primavera and PurchasePro, there is no teaching, disclosure or even a suggestion in this reference of a procurement process which comprises the steps of storing estimated data with the actual performance data and then electronically comparing the estimated data with the actual performance data and then sending the notice of discrepancy back to the buyer, which would then allow a reconciliation of such discrepancy.

As noted during our interview, the Primavera reference does not teach, suggest or even require the practice of the claimed invention. It does include a list of high level functions for business-to-business processing. It does not discuss or mention complex projects, cost estimates, signaling a process for reconciling invoices or the like, or accounting for actual performance data. The Primavera reference is aspirational in the sense that it describes a wish list of functions, but one could practice the hypothetical system described in the reference without the invention.

With respect to 35 U.S.C. 103, despite the fact the software program being touted by PurchasePro was a failure, it should be appreciated that this reference never once mentions the steps of storing estimated data, and then receiving actual performance data at the conclusion of a complex project. With respect to complex projects, the actual performance

data and the estimated data are almost uniformly different, i.e. there typically is a discrepancy between the estimated data and the actual performance data. Because there is no indication of there being a discrepancy in the Primavera reference, there would have been no need to send notice to the buyer or the seller of the discrepancy between the estimated data and the actual performance data as set forth in the claims. Thus, although there is no veracity with respect to the 1999 publication of Primavera and PurchasePro, there is no teaching, disclosure or even a suggestion in this reference of a procurement process which comprises the steps of storing estimated data, storing actual performance data and then electronically comparing the estimated data with the actual performance data and then sending the notice of discrepancy back to the buyer, which would then allow a reconciliation of such discrepancy. It is therefore respectfully submitted that the Primavera/PurchasePro document does not properly support the rejection of the claims under this reference based upon 35 U.S.C. 102 or 35 U.S.C. 103.

Claims 22-25, 34, 51, 54 and 64 have been rejected under 35 U.S.C. 103 based upon the Huberman '244 patent in view of the Wagner '201 patent. The Huberman '244 patent relates to the conduction of an auction in which a successful bidder at the auction has bid a set price for goods or services. This step is essentially what would happen before the present invention swings into action. With the present invention, once there has been a contract granted to a given party, whether it be based upon auction or otherwise, the process of the present invention begins. This is the basis for the compilation of actual performance data, which is indicative of various items such as actual costs and other expenses. All of this is done after one may have practiced the disclosure of the Huberman patent. The Huberman '244 patent never gets around to having actual performance data because there is no performance contemplated and therefore no need to account for discrepancies.

The Wagner '201 patent, likewise, relates only to a process involving the sales of

future commodity contracts and the matching of buyer orders with sale orders but there is no performance involved. There cannot be any actual performance data resulting from the Wagner '201 patent such as is called for in each of the claims.

Thus, the combination of the Huberman '244 patent and the Wagner '201 patent, either taken alone or in combination, fails to disclose, teach or even suggest the steps spelled out in each of the claims.

The cited references have no disclosure, teaching or even a suggestion of having any actual data relating to performance of a project. The references are non-related to any performance criteria.

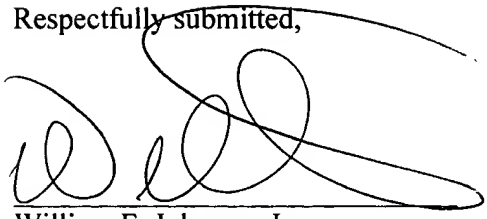
The cited art neither anticipates the claims not makes the claims obvious, whether amended or not.

There is enclosed a Request for an additional One (1) Month Extension of Time, which extends the time for response up to May 13, 2008. While the Applicant is of the opinion no additional extensions will be required, in the event, that an additional extension is required, please treat this as a request for an additional one (1) month extension, extending the time for response to June 13, 2008 and charge the extension fee against Applicant's Deposit Account No. 13-2166.

Again, the Applicants wish to express their appreciation for the interview granted to the Applicants. It is believed that each of the claims is now in prima facie condition for allowance, and the advancement of the application to issue is respectfully requested.

Should the Examiner be of the opinion that a further telephone conference with the undersigned attorney for the Applicants would expedite the advancement of the prosecution of this application, such a telephone conference would be welcomed by the undersigned attorney for the Applicants.

Respectfully submitted,



5/5/08
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John Chisholm

From: John Chisholm
Sent: Saturday, April 26, 2008 3:15 PM
To: jhughes@bpblaw.com; Bob Fielding; Bo Bassett
Subject: purchase pro info

In New Trial, PurchasePro Founder Faces Additional Charge

By Matthew Barakat
Associated Press
Wednesday, October 10, 2007; Page D08

A former dot-com billionaire who allegedly cheated investors at his software company also tried to defraud a federal court at his trial last year by pushing his lawyer to introduce phony e-mails as evidence, prosecutors said yesterday.

Charles E. "Junior" Johnson, 46, whose now-defunct company PurchasePro became embroiled in an accounting scandal with AOL in 2001, headed to trial again in U.S. District Court in Alexandria on charges including stock fraud, conspiracy and witness tampering. Prosecutors added the charge of obstruction of justice, for allegedly urging his attorney to use fake e-mails in the cross-examination of a government witness.

Johnson was one of four executives, including two mid-level executives from AOL, who were tried last year for the alleged stock fraud. But during the trial, U.S. District Judge Walter D. Kelley Jr. declared a mistrial in Johnson's case.

Prosecutors did not reveal all the details of the alleged trial obstruction. Johnson's former lawyer, Preston Burton, is expected to testify for the government. He declined to comment.

In the first quarter of 2001, as the dot-com bubble was bursting, PurchasePro of Las Vegas was having a hard time selling its core product, a "marketplace license" that supposedly facilitated business-to-business purchases over the Internet.

PurchasePro had advised Wall Street that its revenue would increase significantly in the first quarter of 2001, even though its product was essentially a failure, prosecutor Timothy D. Belevetz said in his opening statement. PurchasePro relied heavily on a partnership with AOL to sell the licenses, and AOL resorted to secret side deals and sham accounting to unload the licenses on other businesses.

At last year's trial, PurchasePro executives testified that they concealed the fraud to make it appear that PurchasePro had met its sales goals in the first quarter of 2001.

Johnson, the company's largest stockholder, never sold his shares, even as the stock collapsed and became worthless. Johnson's attorney, Yale Galanter, said in his opening statement that Johnson's refusal to sell the stock when it was valuable proves he was not

Charges against Charles E. Johnson include obstruction of justice. (Andrew Serban - Bloomberg News)

EXHIBIT A